

§ 58-70-40. Restraining orders; criminal convictions; permit revocations; other permit requirements.

(a) When it appears to the Commissioner that any person has violated, is violating, or threatens to violate any provision of this Article, he may apply to the superior court of any county in which the violation has occurred, is occurring, or may occur for a restraining order and injunction to restrain such violation, or threatened violation. If upon application the court finds that any provision of this Article has been violated, is being violated, or a violation thereof is threatened, the court shall issue an order restraining and enjoining such violations; and such relief may be granted regardless of whether criminal prosecution is instituted under any provision of this Article.

(b) If an individual proprietor, officer, or partner of the collection agency has been convicted in any court of competent jurisdiction for any crime involving dishonesty or breach of trust, the collection agency shall notify the Commissioner in writing of the conviction within 10 days after the date of the conviction. As used in this subsection, "conviction" includes an adjudication of guilt, a plea of guilty, or a plea of nolo contendere. The conviction by a court of competent jurisdiction of any permittee for a violation of this Article shall automatically have the effect of suspending the permit of that permittee until such time that the permit is reinstated by the Commissioner. As used in this subsection, "conviction" includes an adjudication of guilt, a plea of guilty, and a plea of nolo contendere.

(c) In addition to the other qualifications for a permit under this Article, no collection agency shall be issued or be entitled to hold a permit if the Commissioner finds as to the applicant or permittee any one or more of the following conditions:

- (1) An individual proprietor, officer, or partner of the collection agency has been convicted of a felony involving moral turpitude, or any State or federal debt collection law.
- (2) There is an unsatisfied judgment which is not currently the subject of litigation against any partner, individual proprietor, or officer of the collection agency or against the collection agency.
- (3) There is any materially false or misleading information in the permit application.
- (4) The applicant has obtained or attempted to obtain the permit through misrepresentation or fraud.
- (5) There has been an adjudication that a partner, individual proprietor, or officer of the collection agency has violated any State or federal unfair trade practice law.
- (6) A partner, individual proprietor, or officer of the collection agency has violated or refused to comply with any provision of this Article or any order of the Commissioner.
- (7) Another jurisdiction has suspended or revoked a collection agency or similar license or permit of the collection agency.

(d) In the case of an alien corporation that has been issued a permit under this Article, in an action brought by the Commissioner, service of process upon the parent entity is sufficient service of process on the alien corporation.

(e) A collection agency shall report to the Commissioner any administrative action taken against the collection agency by another state or by another governmental agency in this State within 30 days after the final disposition of the matter. This report shall include a copy of the order or consent order and other information or documents filed in the proceeding necessary to describe the action. (1931, c. 217, s. 5; 1979, c. 835; 1989, c. 441, s. 9; 2006-134, s. 2; 2009-566, ss. 16, 17.)